

### **REMARKS**

Claims 1-17 are pending in the case. Applicants have amended claims 5 and 12 to remove the phrase "and/or." Applicants have also amended independent claim 16 to include a limitation regarding the pH of the composition. Support for this amendment is found, at least, on page 10, lines 25-29 of Applicants' specification.

### **Response to the Office Action**

#### **The Rejection under 35 U.S.C. § 102(b)/103(a) over Terry et al.**

Claim 16 has been rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 103(a) as obvious over Terry et al. (US 5,259,848). Applicants respectfully traverse this rejection since Terry et al. do not disclose a formulation containing all of the elements of Applicants' claimed invention. Specifically, Terry et al. do not disclose a composition having a pH between 0 and 6.5, as required by Applicants' currently amended claim 16. Therefore, Applicants contend that the Terry reference does not anticipate Applicants' claim 16. In addition, Terry et al. do not teach or suggest Applicants' claimed invention for the reasons stated in the discussion below (the rejection of claim 16 under 35 USC 103(a) over Terry et al).

#### **The Rejection under 35 U.S.C. § 103(a) over Terry et al.**

Claim 16 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Terry et al. (US 5,259,848). Applicants respectfully traverse this rejection. The reference does not establish a *prima facie* case of obviousness. Specifically, it does not teach or suggest all of Applicants' claim limitations, as required in MPEP 2143.03. Terry et al. do not teach or suggest a composition having a pH between 0 and 6.5. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

Terry et al. do not teach or suggest a composition having a pH between 0 to 6.5. In fact, Terry teaches away from such a composition. In Col. 2, lines 52-54, Terry states "Hydrogen peroxide is stable in acid, but decomposes in base to form reactive species that attack the staining material and cause it to break down." Clearly, Terry et al. teach that the cleaning solution is basic (pH 7.0 to 10.5) to allow the peroxide to work. Therefore, one skilled in the art would not be led to Applicants' claimed invention (a composition having a pH between 0 and 6.5) from the disclosure of Terry et al.

#### **The Rejection under 35 U.S.C. § 112, second paragraph**

Claims 5 and 12 have been rejected as being indefinite under 35 U.S.C. § 112, second paragraph. Specifically, the phrase “and/or” is considered to render these claims indefinite. In response, Applicants have amended claims 5 and 12 to remove this phrase. Accordingly, Applicants respectfully submit that the rejection under 35 U.S.C. 112, second paragraph has been overcome.

*The Rejection under 35 U.S.C. § 103 over Terry et al. in view of Boucher*

Claims 1, 3-15 and 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Terry et al. (US 5,259,848) in view of Boucher (US 3,929,662). Applicants respectfully traverse this rejection. The references do not establish a *prima facie* case of obviousness for two reasons. First, there is no reasonable expectation of success, as required in MPEP 2142.02. Terry et al. teach a mechanism requiring a basic solution to achieve cleaning while Boucher is cited for teaching an acidic composition. Secondly, there is no suggestion or motivation to combine the references, as required in MPEP 2143.01. The Terry et al. composition contains a large percentage of water, while Boucher explicitly states that his compositions are for use in a non-aqueous system. In addition, Boucher teaches that his fluorinated compounds are to be used in combination with biocidal aldehydes, which are not present in the carpet cleaning composition of Terry et al. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

Terry et al. achieve stain removal by using a basic solution (Col. 2, lines 63-65 and Col. 4, lines 7-9). Specifically, Terry states “Hydrogen peroxide is stable in acid, but decomposes in base to form reactive species that attack the staining material and cause it to break down.” (see Col. 2, lines 52-54). Clearly, Terry teaches that his cleaning solution is basic (pH 7.0 to 10.5) to allow the peroxide to work. Therefore, one skilled in the art would not expect an acidic composition to be useful in Terry et al.’s invention. Certainly, the pH of the overall carpet cleaning composition would not be acidic, since (according to Terry et al.) the hydrogen peroxide would not be reactive with the staining material in an acidic solution. Applicants contend that this teaches away from using the fluorinated and/or perfluorinated compounds of Boucher to formulate a carpet cleaning composition having a pH between 0 and 6.5, as stated on page 7 of the Office Action.

Additionally, one skilled in the art would not be motivated to combine Terry et al.’s carpet cleaner with Boucher’s sterilizing fluid. The examples of Terry et al. show compositions having a high percentage of water. Boucher, however, clearly teaches a non-aqueous cleaning system: “It is the object of the present invention to provide new biocidal solutions with an extended shelf life and an increased biocidal activity by completely eliminating polar water molecules from the sterilizing compositions...” (Col. 1, lines 30-34). One skilled in the art would not be motivated to use compositions so clearly intended for a non-aqueous system in a highly aqueous composition like that disclosed by Terry et al. Also, Boucher’s composition requires a combination of specific fluoro or

perfluoro carbons with biocidal aldehydes to be effective (see Col. 2, lines 1-8). The Office Action indicates that Boucher's fluoro and perfluoro chemicals can be formulated into Terry et al's carpet cleaner. However, Terry et al do not teach the use of aldehydes in their composition. Therefore, one skilled in the art would not expect that Boucher's fluoro or perfluoro carbons would be useful in Terry et al's composition. For these reasons, Applicants respectfully contend that the claimed invention is not obvious in view of the cited references.

*The Rejection under 35 U.S.C. § 103 over Terry et al. in view of Boucher and Grippaudo et al.*

Claim 2 has been rejected under under 35 U.S.C. § 103(a) as being unpatentable over Terry et al. (US 5,259,848) in view of Boucher (US 3,929,662) and further in view of Grippaudo et al. (US 6,403,547). Applicants respectfully traverse this rejection. The references do not establish a *prima facie* case of obviousness for two reasons. First, there is no reasonable expectation of success, as required in MPEP 2142.02. As discussed above, Terry et al. teach a mechanism requiring a basic solution to achieve cleaning while Boucher is cited for teaching an acidic composition. Secondly, there is no suggestion or motivation to combine the references, as required in MPEP 2143.01. As also discussed above, the Terry et al. composition contains a large percentage of water, while Boucher explicitly states that his compositions are for use in a non-aqueous system. In addition, Boucher teaches that his fluorinated compounds are to be used in combination with biocidal aldehydes, which are not present in the carpet cleaning composition of Terry et al.. Grippaudo does not provide further motivation regarding these issues. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

**Conclusion**

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. WHEREFORE, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein and allowance of Claims 1-17.

Respectfully submitted,

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